

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 12236 of 2004(F)

PETITIONERS:

1. PADMAVATHY AMMA K.A., W/O. LATE KRISHNA
PODUVAL, ACHAMVEDU, NEAR MAGISTRATE COURT,
PAYANNUR.

2. LAKSHMIKUTTY AMMA W/O. LATE T.K.NARAYANA
PODUVAL, ACHAMVEDU, NEAR MAGISTRATE COURT,
PAYANNUR.

BY ADV. SRI.R.LAKSHMI NARAYAN
SMT.R.RANJINI

RESPONDENTS:

1. THE SECRETARY,
PAYANNUR MUNICIPALITY, PAYANNUR.

2. THE DIRECTOR OF MUNICIPALITIES,
THIRUVANANTHAPURAM.

3. ARADHANA TALKIES, PAYANNUR MAIN ROAD,
NEAR MUKUNDA HOSPITAL, PAYANNUR, REPRESENTED BY
ITS MANAGING PARTNER V.P.MADHAVA PODUVAL
S/O. RAMA PODUVAL.

BY ADV SRI.M.SASINDRAN --- R1
ADV. SRI.V.GIRI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE SKETCH SHOWING THE LIE OF PETITIONERS' PREMISES AND CINEMA TALKIES OF THE R3.

EXT.P2. COPY OF THE REPRESENTATION DT. 28/7/03 BY THE PETITIONERS BEFORE THE R2 WITH COPY TO THE R1.

EXT.P3. COPY OF THE AD CARD ACKNOWLEDGING THE RECEIPT OF EXT. P2 BY THE R1 AND R2 DT. 1/8/03.

EXT.P4. COPY OF THE REPRESENTATION DT. 18/3/04 BY PETITIONERS BEFORE THE R1.

EXT.P5. COPY OF THE SKETCH SHOWING THE LIE OF PETITIONERS' PREMISES AND CINEMA TALKIES OF THE R3.

EXT.P6. COPY OF THE REPRESENTATION DT. 31/08/04 BEFORE THE CHIEF TOWN PLANNER, THIRUVANANTHAPURAM.

EXT.P7. COPY OF THE REPRESENTATION DT. 5/1/05 BEFORE THE R1.

RESPONDENT'S EXHIBITS

EXT.R3A. COPY OF THE ALLEGED THARAVAD HOUSE ACHAM VEEDU WHICH IS NOW NON-EXISTENT.

EXT.R3B. COPY OF THE -DO-

EXT.R3C. COPY OF THE BUILDING PERMIT ISSUED BY THE PAYYANNUR MUNICIPALITY FOR THE MINI THEATRE DT. 18/12/01.

EXT.R3D. COPY OF THE REVISED PLAN SANCTIONED BY PAYYANNUR MUNICIPALITY.

EXT.R3E. COPY OF THE RECOMMENDATION OF THE DIT. MEDICAL OFFICER, KANNUR DT. 19/10/01.

EXT.R3F. COPY OF THE REVISED PLAN AND DESIGN APPROVED BY EXT. ENGINEER PWD THALASSERY.

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EXT.R3G. COPY OF THE COMMUNICATION RECEIVED FROM ASST. EXE. ENGINEER THALIPARAMBA DT. 8/3/04.

EXT.R3H. COPY OF THE APPROVAL OF THE LAY OUT FOR THE CONSTRUCTION OF MINI THEATRE FROM CHIEF TOWN PLANNER, TRIVANDRUM DT. 27/11/2000.

EXT.R3(I). COPY OF THE CONSENT RECEIVED FROM ASST. FIRE OFFICER, KANNUR DT. 11/5/01.

EXT.R3J. COPY OF THE CHIEF ELECTRICAL INSPECTOR, TRIVANDRUM DT. 14/5/01 AND 24/12/03.

True copy

tga

KURIAN JOSEPH, J.

W.P. (C). NO. 12236 OF 2004

Dated this the 5th day of July, 2007.

J U D G M E N T

This writ petition is filed with the following prayers:

- i) issue a writ of Certiorari or any other appropriate Writ, Order or direction quashing the licence if any issued by the 1st respondent to the 3rd respondent for running Cinema hall and permission granted for construction of the building in the plot situated adjacent to Aradhana Talkies situated in Sy. No. 76/8 of Payannur Village, at Payannur main Road, near Mukunda Hospital and lying on the north eastern side of the petitioner's property.
- ii) issue a writ of mandamus directing the respondents 1 and 2 to dispose Ext. P2 and P4 complaints, submitted by the petitioners, after due enquiry and giving sufficient opportunity to the petitioners for personal hearing in the matter to substantiate their contentions.

2. As far as the first relief is concerned, since the petitioners have an effective remedy under Rule 29(1) of the Cinema Regulation Rules, 1988, it is not necessary for this Court to consider this issue. It is made clear that in the event of an appeal being pursued within a period of two months from today, the same shall be treated to have been filed in time.

As far as second relief is concerned, in case the petitioners have still any grievances in that regard, they may produce a copy of this judgment before the first respondent, in which case, representation will be duly considered by the first respondent with notice to the petitioners and third respondent and appropriate orders in the matter, in accordance with law, will be passed within another four months.

This writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

smp